

BEFORE THE HUMAN RIGHTS COMMISSION  
OF THE STATE OF MONTANA

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KENNETH LUCERO,	)	
Charging Party,	)	
	)	CASE NO. 0011009705
vs.	)	
	)	
SUPER 8 MOTEL,	)	<b>ORDER AFFIRMING</b>
Respondent.	)	<b>DISMISSAL</b>

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The above-captioned matter came before the Montana Human Rights Commission (Commission) on November 15, 2001. The matter was before the Commission for consideration of the Charging Party's objection to the dismissal of the complaint. Oral argument was not requested and the matter was considered on the record.

After reviewing the record, the Commission finds that the Human Rights Bureau properly dismissed the matter. The record shows that Charging Party failed to state a prima facie case of employment discrimination based upon physical disability. The record shows that Charging Party is a person with a disability (back injury). However, the record also shows that he was not otherwise qualified because he could not perform the job's essential functions with or without a reasonable accommodation as provided by Respondent. The investigator did not abuse her discretion when she issued a notice of dismissal. 24.9.1714(3), ARM. Accordingly, the notice of dismissal must be affirmed.

IT IS HEREBY ORDERED, that the Charging Party's objection is unanimously overruled and the notice of dismissal is affirmed.

Dated this \_\_ day of November, 2001.

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Gary Hindoien, Chair  
Montana Human Rights Commission

## CERTIFICATE OF SERVICE

The undersigned employee of the Human Rights Bureau certifies that a true copy of the foregoing **ORDER AFFIRMING DISMISSAL** was served on the following persons by U.S. Mail, postage prepaid, on November \_\_\_\_, 2001

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